

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Clarence I Allen, Jr. & Shondah T. Allen

Case No. 10-81038

Chapter 13

Soc. Sec. No.: xxx-xx-9054 and xxx-xx-2653

Address: 912 Forge Road, , Durham, NC 27713-

Debtors

MOTION FOR AUTHORITY TO RE-FINANCE REAL PROPERTY

NOW COME the Debtors, by and through the undersigned attorney, pursuant to Sections 1303 and 363 of the Bankruptcy Code, requesting permission to re-finance real estate, and also requesting approval of an attorney fee, and in support thereof, shows unto the Court as follows:

1. Debtors have filed a petition for relief in bankruptcy under Chapter 13 of the United States Code on June 30, 2010.
2. The Debtors are the owners of certain real property (hereinafter referred to as "said property") located in Durham County in the State of North Carolina and more commonly known as 606 United Drive and 831 Belgreen Road, Durham, North Carolina
3. The Debtors have already obtained a commitment for the refinancing, subject to approval by this Court.
4. The following table sets forth the approximate details of the refinance:

Item	Amount
Amount being borrowed on new mortgage:	To be determined
<u>Minus</u> Closing costs:	To be determined
<u>Minus</u> Payoff on the current mortgage:	To be determined
<u>Equals</u> Amount, if any, being pulled out of equity in subject real estate by the Debtors:	To be determined
Interest Rate on new mortgage:	To be determined
Term of new mortgage:	To be determined

5. The Debtor anticipates having this information by the date of hearing on this Motion, but feared that any delay would result in foreclosure sale completion prior to loan closing
6. The current monthly mortgage payment is \$4,821.00

7. The Debtors have already obtained a commitment for the refinancing. The projected monthly payment of the new mortgage is projected to be unknown .
8. On the reasonable assumption that the expenses for real property taxes and/or homeowner's insurance will be about the same, whether or not the refinance occurs, the new mortgage would increase the total monthly expense of the Debtors by approximately \$4,846.00 per month.
9. The Debtors wish to finalize the refinance for the following reasons:
 - a. To payoff ballon note currently owed to Mechanics & Farmers Bank and to preserve the debtors business, which will, in turn, allow the Debtors to proceed with the Chapter 13 plan.
10. The Debtors can afford the said additional monthly expense of the new mortgage, based on the following:
11. By reason of the foregoing, the Both Male and Female that this new higher monthly mortgage expense will not operate a hardship upon them, nor will the higher expense hinder their ability to complete their Chapter 13 plan.
12. It is therefore in the best interest of the bankruptcy estate to allow the Debtors to refinance said real property.
13. That \$450.00 is the reasonable value of the services provided and to be provided by the undersigned attorney for counseling the Debtors concerning the proposed mortgage re-financing, gathering information necessary to draft this application, drafting and processing this motion and the proposed order, interfacing with mortgage brokers and the closing attorney for the purpose of answering questions and concerns regarding the effect of the bankruptcy on the re-financing, extra follow-up to make sure that the ensuing order is obtained and transmitted to the closing attorney in a timely fashion to avoid delaying unnecessarily the projected closing of title. It is anticipated, based on many past experiences, that it will take at least 4 hours of attorney time to attend to said details.

WHEREFORE, the Debtors respectfully pray that the Court allow the said re-financing of the subject real property, approve and direct payment out of the proceeds of such re-financing a reasonable attorney fee or, in the event that the re-financing falls through or falls short, allow payment of the attorney fee through the Debtors' Chapter 13 plan, and grant such other and further relief as to this Court seems just and proper.

Dated: November 19, 2010

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward Boltz

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